

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DONALD STEPHEN YAAG,

Petitioner,

v.

WARDEN RENEE BAKER, *et al.*,

Respondents.

Case No. 3:14-cv-00295-MMD-WGC

ORDER

Before the Court are Petitioner Donald Stephen Yaag's Motion for Records (ECF No. 83), Motion for Dismissal of Counsel (ECF No. 84), Motion to Extend Time (ECF No. 85), and Motions to Compel Previous Counsel to Provide Complete Records (ECF Nos. 86, 88) in this closed habeas matter.

Yaag initiated this case on June 6, 2014, by filing a petition for writ of habeas corpus under 28 U.S.C. § 2254, challenging a 2009 conviction and sentence imposed by the Eighth Judicial District Court for Clark County ("state court"). (ECF No. 1-1.) Yaag filed a counseled second amended petition (ECF No. 48) in August 2017, and Respondents moved to dismiss the second amended petition as untimely, unexhausted, procedurally defaulted, or non-cognizable. (ECF No. 55.) Yaag responded and also requested a stay and abeyance pending the exhaustion of remedies in state court. (ECF Nos. 60, 61.) The Court granted his request and denied the dismissal motion without prejudice. (ECF No. 66.)

In October 2017, Yaag filed a second state petition for writ of habeas corpus. The second state petition was denied as time barred and successive. (ECF No. 68-8.) The state court found that Yaag's actual innocence claim failed to establish good cause to overcome Nevada's procedural bars. (*Id.* at 8.) In October 2019, the Court granted Yaag's

1 unopposed request to reopen this case. (ECF No. 67.) Respondents filed a motion to  
2 dismiss the second amended petition, and the Court dismissed the petition on October 2,  
3 2020, finding Claims A, B(2), and C untimely and Claims B(1), B(2), C, and D procedurally  
4 defaulted. (ECF No. 78.) The Clerk of Court entered judgment. (ECF No. 79.)

5 Yaag appealed the order denying the petition and judgment entered to the United  
6 States Court of Appeals for the Ninth Circuit. (ECF No. 80.) The Ninth Circuit denied  
7 Yaag's request for a certificate of appealability. (ECF No. 82.) The Ninth Circuit granted  
8 Yaag's counsel's request to be relieved as counsel of record and Yaag proceeded *pro se*  
9 before the Ninth Circuit. (ECF No. 87.) The Ninth Circuit denied Yaag's motion for  
10 reconsideration and motion for reconsideration *en banc*. (ECF No. 89.)

11 Yaag requests dismissal of counsel because counsel had "no intentions of filing  
12 for rehearing, rehearing *en banc*, or a petition for certiorari." (ECF No. 84 at 1-2.) Yaag  
13 further requests that counsel file for an extension of time to file for rehearing and rehearing  
14 *en banc* before the Ninth Circuit. (ECF No. 85.) The Ninth Circuit granted counsel's  
15 withdrawal and granted Yaag's request to extend time to file a motion for reconsideration.  
16 (ECF No. 87.) Accordingly, Yaag's motions are denied as moot.

17 Yaag filed multiple motions for his records from the Federal Public Defender's  
18 office. (ECF Nos. 83, 86, 88.) Yaag also attached a signed authorization for release of  
19 records on a form from the Federal Public Defender's office, which provides that Yaag  
20 "understand[s] that the Office of the Federal Public Defender will release [his] entire,  
21 original legal file to [him]," and that he "further understand[s] the Office of the Federal  
22 Public Defender will not maintain a copy of my legal file." (ECF No. 88 at 4.) Accordingly,  
23 it appears that Yaag's motions for records are moot as he already completed an  
24 authorization for release of records with the Office of the Federal Public Defender. The  
25 Court denies his motions as moot.

26 It is therefore ordered that Petitioner Donald Stephen Yaag's Motion for Records  
27 (ECF No. 83) and Motions to Compel Previous Counsel to Provide Complete Records  
28 (ECF Nos. 86, 88) are denied.

1 It is further ordered that Yaag's Motion for Dismissal of Counsel (ECF No. 84) is  
2 denied.

3 It is further ordered that Yaag's Motion to Extend Time (ECF No. 85) is denied.

4 DATED THIS 13<sup>th</sup> Day of January 2022.

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7 MIRANDA M. DU  
8 CHIEF UNITED STATES DISTRICT JUDGE  
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